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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/774,792	02/09/2004	Richard H. Kim	328P-KIM	9039

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Barber Legal
P.O. Box 16220
Golden, CO 80402-6004

EXAMINER

ELKINS, GARY E

ART UNIT PAPER NUMBER

3727

DATE MAILED: 08/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/774,792	Applicant(s) KIM ET AL.	
	Examiner Gary E. Elkins	Art Unit 3727	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on _____.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-7,9-16,18 and 19 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-7,9-14,18 and 19 is/are rejected.
- 7) Claim(s) 15 and 16 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 - Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 - Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 - 1. Certified copies of the priority documents have been received.
 - 2. Certified copies of the priority documents have been received in Application No. _____.
 - 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

DETAILED ACTION

1. The previous Notice of Allowability has been withdrawn for the purpose of applying the following rejections to the claims. The withdrawal of the previous indication of allowability is regretted.

Claim Rejections - 35 USC § 112

2. Claim 18 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 18, lines 1 and 2, "at least one perforation line" is a double inclusion of an element since the perforation lines were previously introduced into the claims.

In claim 18, line 2, "the line" is unclear insofar as a plurality of lines were previously defined in the claims, i.e. which of the plurality is being referred to?

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-4, 11-14, 18 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Nagao (EP '022) (Fig. 5A emb). Nagao discloses a template or sheet 1 with indicia (1-10 repeated) for folding into a container having one of a plurality of different dimensions. The template includes a plurality of parallel vertical and horizontal fold lines formed by perforation lines. As disclosed the indicia is used to create a given container based upon the desired size of

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the container. Each potential size of container is considered to include a set of indicia of a first subset as claimed, e.g. as shown in fig. 5A, a first set would be 10, 2, 6, 8, 2, 3 (horizontally along the template) and 1, 10, 5, 4 (vertically). The sheet when folded and cut according to the set will become a container having a first one of a plurality of different dimensions as claimed. The sheet 1 as shown in Nagao includes at least 15 different possible number sets for at least 15 different sizes of containers. With respect to claim 19, note is made that the sheet 1 in Nagao includes at least 16 vertical foldlines and at least 8 horizontal foldlines, i.e. the sheet 1 extends beyond the specific example cut from the sheet in Fig. 5A. It is noted that each of the lines extending from top to bottom and side to side of the sheet in Nagao is considered to include a plurality of collinear lines defined by the number of panels in the sheet. Also, it is noted that each of the panels is considered to have the length or width of a unit distance and that each fold line is separated from the next parallel fold line by an integer multiple of the first unit distance.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hodgkinson. Hodgkinson discloses a template or sheet 10 (fig. 1) including horizontal and vertical perforated lines 11. Hodgkinson discloses 13 parallel vertical foldlines but does not disclose 16 parallel vertical foldlines. It would have been obvious to make the template of Hodgkinson with 16 parallel vertical foldlines as a mere selection of how big one wishes to make the box. The sizing

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of a box is within the level of skill in this art. See In re Rose, 105 USPQ 237 (CCPA 1955) and Gardiner v. TEC Systems, Inc. 220 USPQ 777 (Fed. Cir. 1984), cert. denied 225 USPQ 232 (1984).

7. Claims 1-4, 12-14 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hodgkinson in view of Nagao. Hodgkinson discloses all structure of the claimed template except sets of indicia of the plurality of fold lines and perforation lines such that when the sheet is folded and cut according to one of the particular sets of indicia, the sheet will become a container having one of a plurality of different dimensions. Nagao teaches that it is known to make a template including horizontal and longitudinal perforation/fold lines with indicia sets allowing one to make a particular container with one of a plurality of sizes associated with each particular set of indicia. It would have been obvious to make the container of Hodgkinson with indicia as taught by Nagao to facilitate more easily producing packing boxes of various shapes and sizes as desired and to allow checking of the sizes of the assembled boxes.

8. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over either Nagao or Hodgkinson in view of Nagao as applied to claim 1 in either paragraph 4 or 6 above, and further in view of Creelman. Each of Nagao and modified Hodgkinson evidences all structure of the claimed template except the use of letters to designate the fold lines and perforation lines. Creelman teaches that it is known to use letters or numbers as identifying indicia. It would have been obvious to provide the indicia in either Nagao or modified Hodgkinson in the form of letters as taught by Creelman as a mere selection of what type of indicia is desired.

9. Claims 6, 7, 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over either Nagao or modified Hodgkinson as applied either paragraph 4 or 6 above, and further in

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view of either Densen or Fiallo. Each of Nagao and modified Hodgkinson evidences all structure of the claimed template except instructions indicating a set of steps to produce the desired container (cl. 6), diagrams indicating steps to take to fold the template in the desired container (cl. 7), instructions as to the length of at least one of the perforation lines which is to be cut (cl. 9) or dimensions of the container to be produced along with instructions for folding and cutting the container to be produced (cl. 10). Each of Densen and Fiallo teaches that it is known to provide a container blank with instructions to produce the container from the blank. It would have been obvious to make the template in either Nagao or modified Hodgkinson with instructions to use the template as taught by either Densen or Fiallo to allow the user to more easily determine how to use the template to produce a desired size of container. It is noted that the steps involved such as folding and cutting, the length of cuts to be made and dimensions of the various containers one could use the template to make are all considered apparent from the disclosure in Nagao and Hodgkinson, i.e. the disclosure in each of these references would dictate that these instructions would be included.

Allowable Subject Matter

10. Claims 15 and 16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

In order to reduce pendency and avoid potential delays, Technology Center 3700 is encouraging FAXing of responses in Office Actions to (571)273-8300. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a

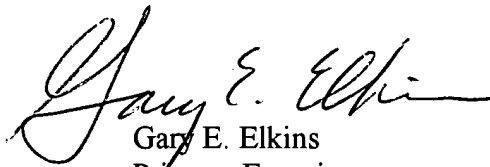
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fee by Applicants who authorize charges to a PTO deposit account. Please identify the Examiner and art unit at the top of your cover sheet.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. Also, copies of an office action or other file information may be obtained from the Private PAIR system. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions regarding access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry concerning this communication or earlier communication from the Examiner should be directed to Gary Elkins at telephone number (571)272-4537. The Examiner can normally be reached Monday through Thursday.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Mr. Nathan Newhouse can be reached at (571)272-4544.


Gary E. Elkins
Primary Examiner
Art Unit 3727

gee
02 August 2005